BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20054

In the matter of	)	
	)	
Access Charge Reform	)	CC Docket No. 96-262
	)	
Price Cap Performance Review for Local Exchange Carriers	)	CC Docket No. 94-1
	)	
Interexchange Carrier Purchases of Switched Access Services Offered by Competitive Local Exchange Carriers	)	CCB/CPD File No. 98-63
	)	
Petition of U S West Communications, Inc. for Forbearance from Regulation as a Dominant Carrier in the Phoenix, Arizona MSA	)	CC Docket No. 98-157

REPLY COMMENTS OF ITCs, INC.

1. ITCs, Inc., an economic cost consultant to independent telephone companies serving America's rural areas, on behalf of Chariton Valley Telephone Company, ETEX Telephone Cooperative, Moultrie Independent Telephone Company, Inc., Plains Telephone Cooperative Association, Inc., South Central Telecommunications of Kiowa, South Central Telephone Association - Kansas, South Central Telephone Association - Oklahoma, Tri Country Telephone Association, Inc., TCT West, Inc. and Wiggins Telephone Association, by its counsel respectfully responds to the Commission's invitation for reply comments in the Notice of Proposed Rule Making on the above captioned matter released August 27, 1999.

Introduction

2. ITCs serves small rural local exchange carriers (LECs) located in the Midwest and Rocky Mountain regions of the United States. In these regions the barriers of distance and density remain

critical impediments to the provision of universal service. It is here that the balance of local rates, universal service support, and access service revenues is extremely delicate and fragile. If any element of this delicate balance is tipped without corresponding adjustments in one of the other elements, the results can be severe, including sudden and dramatic increases in local rates along with potential customer loss, support requirements that are not met for a prolonged period of time, or the customer's loss of interexchange carrier (IXC) choices due to unbearable levels of access charges. Accordingly, the FCC must proceed with the utmost in caution and care.

3. After an examination of the comments filed by IXCs and several of the large LECS in the above referenced proceedings, ITCs feels compelled to reply with these reply comments in order to ensure that the views of several members of the rural telephone community are made a matter of record. While ITCs recognizes that the proceedings referenced herein are primarily directed to large price cap regulated LECs, the impacts discussed in the Further Notice of Proposed Rule Making (FNPRM) and in the comments referenced above are likely to impact small rural companies now and in the future. It is to this end that the following comments are offered.

Geographic Deaveraging For Switched Access Services

4. ITCs supports the deaveraging of all costs associated with the provision of telecommunications services since it is only through the deaveraging process that the real costs of service provision will be known, that all forms of implicit support can be eliminated from pricing structures and placed in universal service support mechanisms, and the marketplace can begin to dictate the nature and costs of providing service. An exception to this general principle results when service providers choose not to offer service because marketplace economics and available forms

of explicit support are not in concert with the carriers' business objectives. Such may be the case if there is a disaggregation of access rates and IXCs correspondingly seek to disaggregate their rates thereby leaving rural customers with unaffordable long distance service. While ITCs recognizes that such a result is not currently possible under the FCC's current rules, it is logical that access rate deaveraging may lead to toll deaveraging. Such a result would be devastating to rural areas. Therefore, should the Commission proceed with this proposal, safeguards ensuring affordable long distance services must remain in place.

5. ITCs also believes that the deaveraging of access rates will promote competition where the true cost of service lends itself to competitive entry. Accordingly, ITCs supports the concept for competitive reasons; however, such action is currently inconsistent with the application of Universal Service Fund (USF) support which is either targeted at the wire-center level or averaged across study areas. Therefore, this issue will require reconsideration and refinement. Specifically, USF should be targeted to high cost areas within a study area and USF support portability should follow in precisely the same manner. This will also eliminate improper market signals which may impede new entry.

6. Throughout the FNPRM, reference is made to different classes of customers (*i.e.*, multi-line business, single line business along with primary and additional residential lines). Simply stated, such references and differentiated rate treatment are wholly inconsistent with the Commission's goal of forward looking cost-based rates wherein there is the costs of lines do not differ by class of services -- a line is a line is a line. In fact, class of service distinctions were eliminated in several recent local rate cases involving forward looking costs. To continue with class differentiations only

means a continuation of implicit support, something eliminated in the Telecommunications Act of 1996. ITCs suggests the Commission recognize this disparity and consider alternatives.

7. In terms of geographical determinations, one might wish for consistency across the country in establishing zones and one might urge the FCC to consider distance, density, or costs. However, the diversities of telecommunications provisioning across these United States are such that no single formula will be perceived as equitable or consistent if it is applied across the United States. Further, the establishment of a fixed number of zones would do little more than lower the averaging process one additional level. At the extreme, but for the administrative and political burden, full deaveraging could extend to the individual customer level. Further, with a targeted USF at both the Federal and State level, the proper marketplace signals will be sent, competition will be accommodated, and the rate paid by the customer will remain affordable.

8. Given the above, ITCs urges the Commission to allow the deaveraging of access rates at the lowest administratively reasonable level and at the lowest level for which forward-looking cost detail is available. Further, these determinations should be made at the State level where the State Commissioners and their staff are aware of, and can ensure the integrity of, the forward-looking cost analysis process.

9. Finally, the most important consideration is consistency between local service, USF support (targeting and portability), and access rate zones. It is only through consistency in these areas that arbitrage opportunities will be limited, customers will be treated properly, and service providers will be assured of economic equity.

Phase II Pricing Flexibility For Switched Access Service

10. ITCs believes that adopting a fixed threshold test for determining the reasonableness of switched access rates is the preferred method since it is clearly more objective and less burdensome than lengthy, cumbersome, and controversial hearing and/or comment processes. However, the reliability and validity of a customer-focused threshold based on an arbitrary number are cause for concern. Further, and of greater importance is that traditionally 80% of a LEC's revenues are generated by 20% of its customers and these 20% are the same customers that are targeted by competitive entrants. Accordingly, to be forced to wait until a 20% threshold is met might result in sheer disaster for the local carrier.

11. Instead of a customer-focused threshold, the threshold should be based on a more meaningful product unit. In the instant case, the product unit would be a percentage of the access minutes. This would be more appropriate than a customer-focused threshold and would allow a local company to react to competition before the majority of its revenues were competitively won by new entrants.

12. In terms of relief, the only proper measure is competitive neutrality. The incumbent must be relieved of regulatory burdens to the same degree as that of the new entrant. Anything short of this approach is unfair and unreasonably prejudicial to the incumbent.

Capacity-based Local Switching Rate Structure

13. ITCs supports the concept of a capacity-based rate which, as stated in the FNPRM, is cost causal and may result in a more equitable rate structure; however, little is known about the impact of such a regime on small rural central office locations and the corresponding ability of IXCs or competitive access providers to enter the local market and effectively compete. Accordingly, ITCs

recommends the adoption of a capacity-based mechanism, but that the carriers be given the option to continue using the current per-minute or per-call local switching rate designs.

CLEC Access Charges

14. While ITCs recognizes the Commission's preference that marketplace solutions prevail with regard to CLEC access charges, the nature of the nationwide telephone network, the structure of the telephone industry, and the Communications Act itself will not allow marketplace forces to prevail with regard to terminating access service rates. In the case of terminating access, Section 251 which requires that all telecommunications carriers interconnect with other telecommunications carriers mandates that IXCs utilize the terminating access services of all terminating carriers. 47 U.S.C. §251. Further, marketplace conditions such as competition, costs, and pricing have no influence with regard to the terminating end of a call, where the decision as to which carrier will provide terminating services is made by the called party, not the carrier utilizing the terminating access services.

15. Of further consequence is a customer's reasonable expectation that his or her calls will be completed regardless of intercarrier disputes, including disputes concerning access charges and all carriers are obligated to ensure that its customers' calls are completed; however, when marketplace forces do not ensure that the consumers' expectations will be met, regulatory intervention in the form of establishing the IXCs' obligation to carry traffic to completion is required. One is hard pressed to imagine a recorded message stating that "your call cannot be completed pending completion of access charge negotiations."

16. The resolution of pricing disputes that may arise from situations such as those described above must be resolved in a forum separate and apart from the service provisioning arena. Existing law and the FCC's formal and informal complaint rules generally provide for the resolution of disputes between carriers. Further, the Commission is in a position to establish additional rules should it be deemed appropriate; however, under no circumstances do the FCC's existing rules, nor should changes in the FCC's rules, relieve IXCs from their obligations to complete their customers' calls.

Conclusion

17. In summary, the Commission should consider geographical deaveraging but must ensure that interexchange services will remain available at reasonable costs to rural consumers. Deaveraging should occur at the lowest reasonable level and must be consistent with the geographical approach to local rate design and ultimately with targeted USF support. Service designations such as residence and single line business should be eliminated inasmuch as they are inconsistent with forward-looking cost concepts.

18. While pricing flexibility thresholds are appropriate, in their present form, an incumbent LEC could be severely impacted before relief is granted. A usage-based threshold, as opposed to a customer-based threshold, is recommended.

19. Finally, in those circumstances where the nature of the industry does not allow market forces to drive appropriate solutions, carriers must remain obligated to meet consumer expectations and directives emerging from national telecommunications policy. As it relates to the instant problem, IXCs must be obligated to terminate all calls originated by their customers, regardless of the rates

charged for terminating access services. Any intercarrier disputes arising from a terminating carrier's rates for access services must be settled by way of the FCC's formal complaint rules and in the interim, IXCs must be required to meet their customers' expectations and ensure that their customers' calls will be carried to completion.

Respectfully submitted

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